

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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AT 8:30
WILLIAM T. WALSH
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SCHERING CORPORATION,

Plaintiff,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

Civil Action No.: 09-cv-6373 (GEB) (TJB)

PRETRIAL SCHEDULING ORDER

THIS MATTER having come before the Court for a scheduling conference pursuant to Rule 16 of the Federal Rules of Civil Procedure on March 22, 2010; and for good cause shown:

IT IS on this 13 day of April, 2010

ORDERED THAT:

I. DISCLOSURES

1. Fed. R. Civ. P. 26 disclosures are to be exchanged on or before **April 5, 2010**.
2. By **May 3, 2010**, Defendants shall provide to Plaintiff their invalidity contentions for the patents-in-suit as required under L. Pat. R. 3.6(b), and produce documents in accordance with L. Pat. R. 3.6 (c) and 3.4.
3. By **May 3, 2010**, Defendants shall provide to Plaintiff their noninfringement contentions for the patents-in-suit as required under L. Pat. R. 3.6(d), and produce documents in accordance with L. Pat. R. 3.6 (e).
4. By **June 17, 2010**, Plaintiff shall provide to Defendants its disclosure of its asserted claims and infringement contentions in accordance with L. Pat. R. 3.6(f), and production of documents in accordance with L. Pat. R. 3.6 (g) and 3.1.
5. Pursuant to L. Pat. R. 3.8, if a party is relying upon the advice of counsel as part of a claim or defense, the Court will set a date, to be determined, for the required disclosures.

II. CLAIM CONSTRUCTION

6. By **July 1, 2010**, the parties shall exchange a list of claim terms that each contends should be construed by the Court, and the parties shall thereafter meet and confer for the purpose of limiting the terms in dispute.

7. By **July 22, 2010**, the parties shall exchange preliminary proposed construction of terms identified by the parties, and shall meet and confer, in accordance with the requirements of L. Pat. R. 4.2(a), (b) and (c).

8. By **September 8, 2010**, the parties shall file with the Court a Joint Claim Construction and Prehearing Statement pursuant to L. Pat. R. 4.3.

9. By **October 8, 2010**, the parties shall complete all discovery related to claim construction, including depositions of any witnesses, other than experts.

10. By **October 15, 2010**, the parties shall file with the Court their respective opening claim construction briefs.

11. By **November 17, 2010**, the parties shall complete all discovery of any expert witnesses submitting a declaration associated with the opening claim construction briefs.

12. By **December 15, 2010**, the parties shall serve responding claim construction briefs, along with responsive expert declarations, if any.

III. DISCOVERY

13. Fact discovery is to remain open through **February 20, 2011**. No discovery is to be issued or engaged in beyond that date, except upon application and for good cause shown.

14. The parties shall conform to the discovery limitations under the Federal Rules of Civil Procedure.

15. Any discovery dispute shall be brought to the Court's attention in the first instance by letter, after the parties' good faith attempt to resolve the dispute has failed. See L. Civ. R. 16.1(f)(1) and L. Civ. R. 37.1(a)(1). No discovery motion or motion for sanctions for failure to provide discovery shall be made without the prior leave of Court.

IV. EXPERTS

16. Opening expert reports with respect to all issues on which a party bears the burden of proof shall be due on March 14, 2011. Responsive reports shall be due on April 25, 2011. Reply Expert reports shall be due on May 9, 2011.

17. Expert discovery, including all depositions, shall conclude on **June 30, 2011**.

V. DISCOVERY CONFIDENTIALITY ORDERS

18. The parties shall present a consent discovery confidentiality order no later than April 28, 2010, supported by a sufficient certification under L. Civ. R. 5.3(b)(2) to the Court; or, in the absence of consent, the issues in dispute shall be submitted to the Court for resolution consistent with the provisions of L. Pat. R. 2.2.

VI. FUTURE CONFERENCES

19. There shall be a telephone status conference before the Court on **June 29, 2010 at 3:00 p.m.** Plaintiff shall initiate the telephone call.

VII. MOTIONS

20. Any motion to add new parties or amend pleadings, whether by amended or third-party complaint, must be filed not later than **January 10, 2011**.

21. Leave shall be sought from the Court for any proposed dispositive motion where the movant shall provide a requesting letter to the Court setting forth the basis or bases for its proposed motion, and the non-movant may submit a responsive letter to the Court concerning its position on any issues related to the proposed motion.



Honorable Tonianne J. Bongiovanni
United States Magistrate Judge